IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 7972 OF 2006

M/s. Nucon Products (P) Ltd..... Petitioner

versus

M/s. R.B. Industrial Construction (Pune) Pvt. Ltd. ..... Respondent.

Shri N.V.Walawalkar with Arvind Purohit for the petitioner
Shri A.Y.Sakhare Sr. adv. with Mr. Siddharth Karpe i/b. M/s. Y.K.S.Legal for Respondents 1 and 2.

CORAM; A.P. DESHPANDE, J.
DATED; 2ND JULY, 2007

P.C.;

1. The present petitioner instituted a suit against the respondent for recovery of an amount of Rs. 32,10,578.20/-. In the written statement filed by the defendant nos. 1 and 2, the said defendants have admitted the claim subject to the recovery of the amount from the defendantno.3. The present petitioner then moved an application for attachment before judgment and rejection of the said application has given raise to the filing of the present writ petition. It is the case of the petitioner that the respondent nos.1 and 2 have issued an advertisement for sale of the properties sought to be attached. The respondent nos.1 and 2 submit that the value of the

said property is much more and it is said to be valued in the sum of about Rs. 8 crores. Having regard to the fact that the petitioner has to recover a sum of Rs.32,10,000/- and odd, according to the respondent nos.1 and 2 it would not be just and fair to attach the entire property. In all fairness Mr. Sakhare the learned Sr. advocate submits that the respondent nos.1 and 2 are ready and willing to furnish a bank guarantee to secure the suit claim of the plaintiff which is roughly in the sum of Rs. 32,11,000/-. In this view of the matter,I pass the following order.

4. The respondent nos. 1 and 2 shall furnish a bank guarantee in the sum of Rs.32,11,000/- before the trial court and shall keep the bank guarantee alive till the decision of the suit. The bank guarantee shall be furnished to the satisfaction of the trial court. On furnishing the bank guarantee the injunction order passed by this court shall stand vacated. In this view of the matter the petition is disposed of in the above terms.

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